

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ROGER FOUNTAIN,

Plaintiff,

v.

NORTH AMERICAN BANCARD, LLC,
DBA PAY ANYWHERE, LLC

Defendant.

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CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Defendant, for the purpose only of removing this cause to the United States District Court for the Eastern District of Texas, Sherman Division, states:

1. **State Court Action.** This is an action filed by Plaintiff on June 21, 2012, in the Small Claims Court, Precinct 3, Collin County, Texas, being numbered 032-SC-12-123, on the docket of said court, and being a suit by Plaintiff to recover damages under the Telephone Consumer Protection Act, 47 U.S.C. §227.

2. **Original Jurisdiction.** This action is removable under 28 U.S.C. §1441 on the basis of a federal question. Plaintiff seeks to recover damages under the Telephone Consumer Protection Act, which is a claim exclusively maintainable under 47 U.S.C. §227. This claim arises under federal law. Consequently, this Court has original jurisdiction under 28 U.S.C. §1331 and 47 U.S.C. §227. *See Mims v. Arrow Financial Services, LLC*, 132 S.Ct. 740, 745 (2012) (“We hold ... that federal courts have ... jurisdiction over private suits arising under the [Telephone Consumer Protection Act].”)

3. **State Court Documents Attached.** Defendant was served on June 26, 2012. Accordingly, removal is timely under 28 U.S.C. §1446(b). Pursuant to L.R. CV-81(c), attached are the following:

- (a) list of all parties and attorneys in the case (Exhibit “A”); and
- (b) state court file and docket sheet (Exhibit “B”).

4. **Notice.** Defendant will give notice of filing of the Notice of Removal to all parties of record pursuant to 28 U.S.C. §1446(d) and will file with the state court a notice of filing this Notice of Removal.

5. **Prayer.** Wherefore, Defendant prays that the United States District Court for the Eastern District of Texas, Sherman Division, accept this Notice of Removal and that it assume jurisdiction of this cause and that it issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Respectfully submitted,

By: /s/ Andrew G. Jubinsky
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document was filed electronically, on the 20th day of July, 2012. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be serviced via certified mail, return receipt requested.

/s/ Andrew G. Jubinsky

Andrew G. Jubinsky